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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,916	04/19/2007	Junji Yodoi	KUP-11	7859
20808	7590	06/01/2009	EXAMINER	
BROWN & MICHAELS, PC			PAK, YONG D	
400 M & T BANK BUILDING				
118 NORTH TIOGA ST			ART UNIT	PAPER NUMBER
ITHACA, NY 14850			1652	
			MAIL DATE	DELIVERY MODE
			06/01/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/597,916	YODOI ET AL.	
	Examiner	Art Unit	
	YONG D. PAK	1652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 2/13/2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-3 and 8-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-3 and 8-52 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 11 August 2006 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/13/08 & 4/19/07</u> . | 6) <input checked="" type="checkbox"/> Other: <u>Notice to Comply - Sequence Listing</u> . |

DETAILED ACTION

This application is a 371 of PCT/JP05/02388.

The preliminary amendment filed on August 11, 2006, amending claim 3, canceling claims 4-7, and amending the abstract, has been entered. Therefore, no new matter has been entered.

Claim 21 is pending and is under consideration.

Claim for Foreign Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Information Disclosure Statement

The information disclosure statements (IDS) submitted on February 13, 2008 and April 19, 2007 are in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements are being considered by the examiner.

Specification

The abstract of the disclosure is objected to because the abstract is in two paragraphs. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: --Preventive and Therapeutic Agent Comprising Human Thioredoxin for Preventing or Treating Chronic Obstructive Pulmonary Disease--.

This application is a contains sequence disclosure that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825. To be in compliance, applicants are required to identify nucleotide sequences of at least 10 nucleotides and amino acid sequence of at least 4 amino acids in the specification by a proper sequence identifier, i.e. "SEQ ID NO:", see MPEP 2422.01). It is particularly noted that the sequences on page 6 lines 6-7 and 9, for example, lack sequence identification numbers.

Further, the speciation refers to "SEQ ID NO:1" and "SEQ ID NO:2" on page 6, but the application does not a paper copy of the Sequence Listing nor a computer readable file of a Sequence Listing. Therefore, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825. See the attached Notice to Comply.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3 and 8-52 are rejected under 35 U.S.C. 102(b) as being anticipated by Hillman et al.

Claims 1-3 and 8-52 are drawn to a therapeutic agent containing a human thioredoxin, wherein said therapeutic agent is for the disease or condition recited in claims 1-3 and 8-28.

Hillman et al. (US Patent No. 5,831,049 – form PTO-892) discloses a therapeutic agent containing a human thioredoxin (abstract and Column 19, line 46 through Column 21, line 67). The limitation “for chronic obstructive pulmonary disease” of claim 1 and such limitations recited in claims 2-3 and 8-28 merely state the purpose or intended use of the invention, rather than any distinct definition of any of the claimed invention's limitations. Further, such intended use of a therapeutic agent containing a human thioredoxin does not result in a structural difference. Therefore, such limitations have not been given any patentable weight. Therefore, the reference of Hillman et al. anticipates claims 1-3 and 8-52.

Conclusion

Claims 1-3 and 8-52 are rejected.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yong Pak whose telephone number is 571-272-0935. The examiner can normally be reached 6:30 A.M. to 5:00 P.M. Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nashaat Nashed can be reached on 571-272-0934. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 571-272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

/Yong D Pak/
Primary Examiner, Art Unit 1652